

1 Add 2 Cal. Code Regs. section 18709 as follows:

2 **§ 18709. Governmental Decision: Segmentation.**

3 (a) An agency may segregate a decision in which a public official has a financial
4 interest, to allow participation by the official, provided all of the following conditions
5 apply:

6 (1) The decision in which the official has a financial interest can be broken down
7 into separate decisions that are not inextricably interrelated to the decision in which the
8 official has a disqualifying financial interest;

9 (2) The decision in which the official has a financial interest is segregated from
10 the other decisions;

11 (3) The decision in which the official has a financial interest is considered first
12 and a final decision is reached by the agency without the disqualified official's
13 participation in any way; and

14 (4) Once the decision in which the official has a financial interest has been made,
15 the disqualified public official's participation does not result in a reopening of, or
16 otherwise financially affect, the decision from which the official was disqualified.

17 ***OPTION 1: LANGUAGE PRESENTED TO THE COMMISSION:***

18 (b) For purposes of this regulation, decisions are inextricably interrelated when,
19 among other things, one decision is a necessary condition precedent, condition
20 subsequent, or alternate to the other, or the result of one decision will effectively
21 determine or nullify the result of another.

22 ***OPTION 2: BASIC DEFINITION WITHOUT "CONDITION PRECEDENT" &***
23 ***"CONDITION SUBSEQUENT" LANGUAGE:***

1 (b) For purposes of this regulation, decisions are “inextricably interrelated” when
2 the result of one decision will effectively determine, affirm, nullify, or alter the result of
3 another decision.

4 ***OPTION 3: INCORPORATING “CONDITION PRECEDENT” & “CONDITION***
5 ***SUBSEQUENT” CONCEPTS:***

6 (b) For purposes of this regulation, decisions are “inextricably interrelated” in
7 circumstances including, but not limited, to the following:

8 (1) The official has a financial interest in a decision, and a result in a prior
9 decision determines, affirms, nullifies, or alters the decision in which the official has the
10 financial interest; or

11 (2) The official has a financial interest in a decision, and a subsequent decision
12 will affirm, nullify or alter the decision in which the official has the financial interest, or
13 the subsequent decision is required before the decision in which the official has the
14 financial interest can proceed.

15 (c) Budget Decisions and General Plan Adoption or Amendment Decisions
16 Affecting an Entire Jurisdiction: Once all the separate decisions related to a budget or
17 general plan affecting the entire jurisdiction have been finalized, the public official may
18 participate in the final vote to adopt or reject the agency’s budget or to adopt, reject, or
19 amend the general plan.

20 COMMENT: This regulation implements the segmentation principle outlined in the
21 Commission’s opinion *In re Owen* (1976) 2 FPPC Ops. 77.
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23 NOTE: Authority cited: Section 83112, Government Code.
24 Reference: Sections 87100 and 87103, Government Code.